

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 675

AN ACT

To repeal sections 33.080, 166.300, 339.105, and 374.150, RSMo, and to enact in lieu thereof five new sections relating to certain special funds, with penalty provisions and an emergency clause.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 33.080, 166.300, 339.105, and 374.150,
2 RSMo, are repealed and five new sections enacted in lieu thereof,
3 to be known as sections 33.080, 43.252, 166.300, 339.105, and
4 374.150, to read as follows:

5 33.080. 1. All fees, funds and moneys from whatsoever
6 source received by any department, board, bureau, commission,
7 institution, official or agency of the state government by virtue
8 of any law or rule or regulation made in accordance with any law,
9 excluding all funds received and disbursed by the state on behalf
10 of counties and cities, towns and villages shall, by the official
11 authorized to receive same, and at stated intervals of not more
12 than thirty days, be placed in the state treasury to the credit
13 of the particular purpose or fund for which collected, and shall

1 be subject to appropriation by the general assembly for the
2 particular purpose or fund for which collected during the
3 biennium in which collected and appropriated. The unexpended
4 balance remaining in all such funds (except such unexpended
5 balance as may remain in any fund authorized, collected and
6 expended by virtue of the provisions of the constitution of this
7 state) shall at the end of the biennium and after all warrants on
8 same have been discharged and the appropriation thereof has
9 lapsed, be transferred and placed to the credit of the ordinary
10 revenue fund of the state by the state treasurer. Any official
11 or any person who shall willfully fail to comply with any of the
12 provisions of this section, and any person who shall willfully
13 violate any provision hereof, shall be deemed guilty of a
14 misdemeanor; provided, that all such money received by the
15 curators of the University of Missouri except those funds
16 required by law or by instrument granting the same to be paid
17 into the seminary fund of the state, is excepted herefrom, and in
18 the case of other state educational institutions there is
19 excepted herefrom, gifts or trust funds from whatever source;
20 appropriations; gifts or grants from the federal government,
21 private organizations and individuals; funds for or from student
22 activities; farm or housing activities; and other funds from
23 which the whole or some part thereof may be liable to be repaid
24 to the person contributing the same; and hospital fees. All of
25 the above excepted funds shall be reported in detail quarterly to
26 the governor and biennially to the general assembly.

27 2. Notwithstanding any provision of law to the contrary
28 concerning the funds listed in subdivisions (1) to (23) of this

1 subsection, an amount equal to the sum of all interest that has
2 accrued in the funds listed in subdivisions (1) to (23) of this
3 subsection during the two-year period beginning July 1, 2001, and
4 ending June 30, 2003, shall be transferred and placed to the
5 credit of the general revenue fund of the state by the state
6 treasurer upon the effective date of this act. The funds subject
7 to the provisions of this section are as follows:

8 (1) Residential mortgage licensing fund created pursuant to
9 section 443.845, RSMo;

10 (2) Gaming commission bingo fund created pursuant to
11 section 313.008, RSMo;

12 (3) Missouri air emission reduction fund created pursuant
13 to section 643.350, RSMo;

14 (4) Mental health housing trust fund created pursuant to
15 section 215.054, RSMo;

16 (5) Division of credit unions fund created pursuant to
17 section 370.107, RSMo;

18 (6) Division of savings and loan supervision fund created
19 pursuant to section 369.324, RSMo;

20 (7) Division of finance fund created pursuant to section
21 361.170, RSMo;

22 (8) Natural resources protection fund created pursuant to
23 section 640.220, RSMo, with the exception of the water permit
24 fees subaccount and damages subaccount;

25 (9) Endowed care cemetery audit fund created pursuant to
26 section 193.265, RSMo;

27 (10) Metallic minerals waste management fund created
28 pursuant to section 444.370, RSMo;

1 (11) Natural resources protection air pollution asbestos
2 fee subaccount fund created pursuant to section 643.245, RSMo;

3 (12) Chemical emergency preparedness fund created pursuant
4 to section 292.607, RSMo;

5 (13) Legal defense and defender fund created pursuant to
6 section 600.090, RSMo;

7 (14) Safe drinking water fund created pursuant to section
8 640.110, RSMo;

9 (15) Coal mine land reclamation fund created pursuant to
10 section 444.960, RSMo;

11 (16) Missouri horse racing commission fund created pursuant
12 to section 313.530, RSMo;

13 (17) Hazardous waste remedial fund created pursuant to
14 section 260.480, RSMo;

15 (18) Missouri air pollution control fund created pursuant
16 to section 307.366, RSMo;

17 (19) Property reuse fund created pursuant to section
18 447.710, RSMo;

19 (20) State transportation assistance revolving fund created
20 pursuant to section 226.191, RSMo;

21 (21) Correctional substance abuse earnings fund created
22 pursuant to section 559.635, RSMo;

23 (22) Mined land reclamation fund created pursuant to
24 section 444.730, RSMo;

25 (23) Aviation trust fund created pursuant to section
26 155.090, RSMo.

27 3. Notwithstanding any provision of law to the contrary
28 concerning the funds listed in subdivisions (1) to (5) of this

1 subsection, the amount specified for each fund listed in
2 subdivisions (1) to (5) of this subsection shall be transferred
3 and placed to the credit of the general revenue fund of the state
4 by the state treasurer before October 1, 2003. The funds subject
5 to the provisions of this subsection and the amount of transfer
6 are as follows:

7 (1) State fair fees fund created pursuant to section
8 262.260, RSMo, six thousand dollars;

9 (2) Petroleum inspection fund created pursuant to section
10 414.082, RSMo, seventy-seven thousand six hundred and seventeen
11 dollars;

12 (3) Department of revenue information fund pursuant to
13 section 32.067, RSMo, two hundred and fifty thousand dollars;

14 (4) Secretary of state's technology trust fund account
15 established pursuant to section 28.160, RSMo, one hundred and two
16 thousand dollars;

17 (5) Administrative trust fund established pursuant to
18 subsection 11 of section 37.005, RSMo, three million five hundred
19 thousand dollars.

20 43.252. All moneys received by the superintendent of the
21 Missouri highway patrol for the copying of reports, photographs,
22 and other related materials of highway patrol investigated motor
23 vehicle accidents and for requests for specialized statistical
24 computer analysis of motor vehicle accident investigation data
25 shall be deposited in the state treasury to the credit of the
26 "Highway Patrol Traffic Records Fund" which is hereby created.
27 Notwithstanding the provisions of section 33.080, RSMo, to the
28 contrary, if the moneys collected and deposited into the fund are

1 not totally expended annually by the highway patrol at the end of
2 the biennium, such unexpended monies in such fund shall remain in
3 the fund and shall not revert to the state general revenue fund.

4 166.300. 1. As used in this section, the following words
5 and phrases shall mean:

6 (1) "Capital improvement projects", expenditures for lands
7 or existing buildings, improvements of grounds, construction of
8 buildings, additions to buildings, remodeling of buildings and
9 initial equipment purchases;

10 (2) "School facility", a structure dedicated primarily to
11 housing teachers and students in the instructional process, but
12 shall not include buildings dedicated primarily to administrative
13 and support functions within the school.

14 2. There is hereby created a revolving fund to be known as
15 the "School Building Revolving Fund". All forfeitures of assets
16 transferred pursuant to section 166.131, all gifts and bequests
17 to such fund, and such moneys as may be appropriated to the fund
18 shall be deposited into the school building revolving fund;
19 except that no more than four hundred forty million dollars, in
20 the aggregate, shall be transferred to the fund. After a fund
21 balance has been established by prior years' deposits and
22 interest, school districts may submit applications for lease
23 purchases from the revolving fund for specific projects
24 consistent with rules and regulations of the state board of
25 education and subsection 3 of this section, except that no school
26 district may be permitted to enter into a lease purchase from the
27 school building revolving fund without first submitting a
28 long-range capital improvements plan.

1 3. To be eligible for a lease purchase authorized by this
2 section:

3 (1) A school district shall meet the minimum criteria for
4 state aid and for increases in state aid established pursuant to
5 section 163.021, RSMo;

6 (2) A school district shall provide a program which is
7 accredited by the state board of education for grades
8 kindergarten through twelve or for grades kindergarten through
9 eight; and

10 (3) A school district shall have an equalized, assessed
11 valuation per eligible pupil for the preceding year which is less
12 than the statewide average equalized, assessed valuation per
13 eligible pupil for the preceding year; and

14 (4) A school district shall have a bonded indebtedness
15 which is no less than ninety percent of the constitutional
16 limitation on indebtedness pursuant to section 26(b) of article
17 VI of the Constitution of Missouri.

18 4. Lease purchase applications shall be funded, as funds
19 allow, first for all applications pursuant to subdivision (1) of
20 this subsection and then for applications pursuant to subdivision
21 (2) of this subsection and then for applications pursuant to
22 subdivision (3) of this subsection, and for funding of
23 applications pursuant to a particular subdivision, applications
24 shall be funded in the order that the applications are received
25 by the department. If two or more applications are received on
26 the same day, the district with the lowest appraised valuation
27 per pupil shall be given priority. Ranking of the applications
28 for offering of lease purchases shall be done in the following

1 order:

2 (1) Districts with capital replacement costs in excess of
3 insurance proceeds due to facility destruction caused by fire or
4 natural disaster shall be ranked on the basis of percentage of
5 bonding capacity;

6 (2) Districts with a cumulative percentage growth in fall
7 membership for the third through the fifth preceding years in
8 excess of twelve percent and which have a bonded indebtedness
9 which is no less than ninety percent of the constitutional
10 limitation on indebtedness pursuant to section 26(b) of article
11 VI of the Constitution of Missouri; and

12 (3) Districts with an equalized assessed valuation per
13 pupil which is less than the statewide average equalized assessed
14 valuation per pupil and which have a bonded indebtedness which is
15 no less than ninety percent of the constitutional limitation on
16 indebtedness pursuant to section 26(b) of article VI of the
17 Constitution of Missouri.

18 5. When building replacement is caused by fire or natural
19 disaster, the requirement for a school district to have a
20 long-range capital improvements plan may be waived by the state
21 board of education.

22 6. Each school district participating in a lease purchase
23 from the school building revolving fund shall repay such lease
24 purchase in no more than ten annual payments made on or before
25 June thirtieth of each year. The first such payment shall be due
26 and payable on June thirtieth of the first full fiscal year
27 following receipt of lease purchase proceeds. Lease purchase
28 repayments shall be immediately deposited to the school building

1 revolving fund by the department. Interest charged to the school
2 district shall not exceed three percent.

3 7. Any school district which fails to obligate the full
4 amount of a loan from the school building revolving fund for the
5 allowable lease purchase must return the unobligated amount plus
6 interest earned to the department no later than June thirtieth of
7 the second full fiscal year after receipt of loan proceeds.

8 8. If a school district fails to make an annual payment to
9 the school building revolving fund after notice of nonpayment by
10 the department, members of the board of education and the school
11 district's superintendent shall have violated section 162.091,
12 RSMo, and the attorney general of the state of Missouri shall be
13 notified by the state board of education to begin prosecution
14 procedures.

15 9. All property purchased pursuant to a lease purchase from
16 the school building revolving fund shall remain the property of
17 the state until such time as the lease purchase has been fully
18 repaid pursuant to this section. If a school district does not
19 make an annual payment to the school building revolving fund
20 after notice of nonpayment by the department, the state board of
21 education may, if the delinquency exceeds one hundred eighty
22 days, take possession of the property. As a part of the lease
23 purchase agreement, the school district shall agree to assume all
24 costs, obligations and liabilities for or arising out of
25 establishment, operation and maintenance of the lease purchase
26 property. Other provisions of law to the contrary
27 notwithstanding, neither the state nor any state agency shall
28 have any obligation for such costs, obligations or liabilities

1 unless and until the state board of education takes possession of
2 the property pursuant to this subsection upon a school district's
3 failure to make annual payments as required in the lease purchase
4 agreement.

5 10. [Notwithstanding the provisions of section 33.080,
6 RSMo, to the contrary, moneys in the school building revolving
7 fund shall not be transferred to the credit of the general
8 revenue fund at the end of the biennium. All yield, interest,
9 income, increment or gain received from time deposit of moneys in
10 the state treasury to the credit of the fund shall be credited by
11 the state treasurer to the fund.] Any unobligated cash balance in
12 the school building revolving fund as of the effective date of
13 this act, shall be transferred to aid the public schools of this
14 state pursuant to section 163.031, RSMo. Any and all deposits
15 made to the school building revolving fund after August 28, 2003,
16 shall be immediately transferred to the state school moneys fund,
17 pursuant to section 166.051.

18 339.105. 1. Each broker who holds funds belonging to
19 another shall maintain such funds in a separate bank [checking]
20 account in a financial institution[, either a bank, savings and
21 loan association or a credit union in this state, or in an
22 adjoining state with written permission of the commission,] which
23 shall be designated an escrow or trust account [in which all
24 money not his own coming into his possession, including]. This
25 requirement includes funds in which he or she may have some
26 future interest or claim[,]. Such funds shall be deposited
27 promptly unless all parties having an interest in the funds have
28 agreed otherwise in writing. No broker shall commingle his or

1 her personal funds or other funds in this account with the
2 exception that a broker may deposit and keep a sum not to exceed
3 [five hundred] one thousand dollars in the account from his or
4 her personal funds, which sum shall be specifically identified
5 and deposited to cover service charges related to the account.
6 [The commission may, by written waiver issued for good cause as
7 defined by rule and regulation, relieve a broker from the
8 obligation to maintain a separate escrow or trust account.]

9 2. [Before issuance of a broker license,] Each broker shall
10 notify the commission of the name of his or her intent not to
11 maintain an escrow account, or the name of the financial
12 institution in which each escrow or trust account is maintained,
13 the name and number of each such account, and shall file written
14 authorization directed to each financial institution to allow the
15 commission or its authorized representative to examine each such
16 account; such notification and authorization shall be submitted
17 on forms provided therefor by the commission [but shall not be
18 required in any case where maintenance of an escrow or trust
19 account has been waived pursuant to subsection 1 of this
20 section]. A broker shall notify the commission within [fifteen]
21 ten business days of any change of his or her intent to maintain
22 an escrow account, the financial institution [or], account
23 numbers, or change in account status.

24 3. In conjunction with each escrow or trust account a
25 broker shall maintain [at his usual place of business,] books,
26 records, contracts and other necessary documents so that the
27 adequacy of said account may be determined at any time. The
28 account and other records shall be [open] provided to [inspection

1 by] the commission and its duly authorized agents for inspection
2 at all times during regular business hours at the broker's usual
3 place of business.

4 4. Whenever the ownership of any escrow moneys received by
5 a broker pursuant to this section is in dispute by the parties to
6 a real estate sales transaction, the broker shall report and
7 deliver the moneys to the state treasurer within three hundred
8 sixty-five days of the date of the initial projected closing date
9 in compliance with sections 447.500 to 447.595, RSMo. The
10 parties to a real estate sales transaction may agree in writing
11 that the funds are not in dispute and shall notify the broker who
12 is holding the funds.

13 5. A broker shall not be entitled to any [part of the
14 earnest] money or other money paid to him or her in connection
15 with any real estate sales transaction as part or all of his or
16 her commission or fee until the transaction has been consummated
17 or terminated, unless agreed in writing by all parties to the
18 transaction.

19 [5.] 6. When, through investigations or otherwise, the
20 commission has reasonable cause to believe that a licensee has
21 acted, is acting or is about to act in violation of this section,
22 the commission may, through the attorney general or any [of his]
23 assistants designated by [him] the attorney general, proceed in
24 the name of the commission to institute suit to enjoin any act or
25 acts in violation of this section.

26 [6.] 7. Any such suit shall be commenced in either the
27 county in which the defendant resides or in the county in which
28 the defendant has acted, is acting or is about to act in

1 violation of this section.

2 [7.] 8. In such proceeding, the court shall have power to
3 issue such temporary restraining or injunction orders, without
4 bond, which are necessary to protect the public interest. Any
5 action brought under this section shall be in addition to and not
6 in lieu of any other provisions of this chapter. In such action,
7 the commission or the state need not allege or prove that there
8 is no adequate remedy at law or that any individual has suffered
9 any economic injury as a result of the activity sought to be
10 enjoined.

11 374.150. 1. All fees due the state under the provisions of
12 the insurance laws of this state shall be paid to the director of
13 revenue and deposited in the state treasury to the credit of the
14 insurance department fund unless otherwise provided for in
15 subsection 2 of this section.

16 2. There is hereby established in the state treasury a
17 special fund to be known as the "Department of Insurance
18 Dedicated Fund". The fund shall be subject to appropriation of
19 the general assembly and shall be devoted solely to the payment
20 of expenditures incurred by the department of insurance
21 attributable to duties performed by the department as required by
22 law which are not paid for by another source of funds. Other
23 provisions of law to the contrary notwithstanding, beginning on
24 January 1, 1991, all fees charged under any provision of chapter
25 325, 354, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384
26 or 385, RSMo, due the state shall be paid into this fund. The
27 state treasurer shall invest moneys in this fund in the same
28 manner as other state funds and any interest or earnings on such

1 moneys shall be credited to the department of insurance dedicated
2 fund. The provisions of section 33.080, RSMo, notwithstanding,
3 moneys in the fund shall not lapse, be transferred to or placed
4 to the credit of the general revenue fund unless and then only to
5 the extent to which the unencumbered balance at the close of the
6 biennium year exceeds two times the total amount appropriated,
7 paid, or transferred to the fund during such fiscal year.

8 3. Notwithstanding the provisions of this section to the
9 contrary, fifty-five percent of the balance in the department of
10 insurance dedicated fund as of the effective date of this act or
11 six million fifteen thousand eight hundred and fifty-five
12 dollars, whichever is greater, shall be subject to an immediate
13 one-time transfer to the state general revenue fund.

14 Section B. Because of the need to increase access to
15 certain state revenue in light of the current fiscal crisis,
16 section A of this act is deemed necessary for the immediate
17 preservation of the public health, welfare, peace and safety, and
18 is hereby declared to be an emergency act within the meaning of
19 the constitution, and section A of this act shall be in full
20 force and effect upon its passage and approval.

21 Section C. The repeal and reenactment of section 339.105
22 shall become effective on January 1, 2004.

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